

1025

A D V I C E

TO THE

Freeholders and Burghers

OF

G R E A T B R I T A I N .

CONTAINING,

RULES and DIRECTIONS for the Choice of
MEMBERS to serve in PARLIAMENT ; whereby
they may be assured of having such Gentlemen
to represent them, who will not sell, barter, or
betray their Liberties and Properties, nor consent
to any TAXES, which are not *Absolutely* necessary
for the Honour and Prosperity of the Nation.

With a WORD or two concerning

PLACES and PENSIONS.

To which are added,

ANIMADVERSIONS on the Power and
Business of a PARLIAMENT.

P A R T I C U L A R LY

In punishing *Over-grown Favourites, and Rapacious Statesmen.*

W I T H

An APPENDIX, containing that glorious
Bulwark of our FREEDOM, the *Habeas Corpus Act* ;
with a COMMENT, or REMARKS.

Lex est tutissimus Clypeus. COKE, Instit.

Si Parlamenti Antiquitatem Species, est vetustissima ; si Dignitatem est Honoratissima, si Jurisdictionem, est Capacissima.

Ibid.

Great Britain. Freeholders of the

L O N D O N :

Printed for H. C A R P E N T E R , in Fleetstreet,

[Price One Shilling.]

ADVICE
TO THE
MISSES BRUNELLES

GREAT BRITAIN

A circular library stamp with a decorative floral or scrollwork border. The text "BRITISH MUSEUM LONDON" is printed in a circular pattern around the perimeter, and the year "1851" is in the center.

PLAYS AND PUNSIONS

ANNUAL EDITIONS ON THE PRACTICING LITERATURIST

As APPENDIX continuing the previous Cm. AG;

19. I am a member of the *Worshipful Company of Drapers* and a member of the *Worshipful Company of Goldsmiths*.

NO CMO

Thinking for the Canadian in Michigan



A D V I C E T O T H E F R E E H O L D E R S O F G R E A T B R I T A I N.

Friends, Countrymen, Fellow-Citizens,



S many Gentlemen do already use unwearied Application to be chosen Members of the next New Parliament, think me not officious if I lay before you the Qualifications that render a Person *Fit* or *Unfit*, *Worthy* or *Unworthy* for so great a Trust.

1. In the first Place: Avoid all such as hold any Office of considerable Value *during Pleasure*; for such Men are subject to be *Over-awed*. Though a Man wishes well to his Country, and in betraying it, knows that, at the long Run, he mischiefs and enslaves his Posterity, if not himself; yet the Narrowness of Men's Minds is such, as makes them more tenderly apprehend a small present Damage, than a far greater hereafter. Such Men must of

B

Necessity

Necessity be under a great Temptation and Distraction, when their Consciences and Interests look different Ways. For, to speak the Truth, such an Office is but a softer Word for a PENSION: Therefore when such Men know before-hand the Inconveniencies that attend the Trust of a Member of Parliament faithfully discharged, 'tis very suspicious, and reflects upon their Integrity if they stand for it; and I think we are bound in Charity, nor can we do them a greater Curtesy than to answer their Petition in the Lord's Prayer — *Not to lead them into Temptation.*

2. Suspect all those (especially if they are Men of ill Repute) who in their Profession or near Relations have Dependency upon the Court. For, tho' to be the King's Servant is no Bar from being a Parliament-Man, or from serving his Country honestly in that Station, and no doubt several of them have, at divers Times, well discharged the same; yet frequently such Persons (unworthily) guessing at their Prince by themselves, are apt to vote Right or Wrong, as they imagine will best please the Prerogative Party: And it is a hard Matter for a Courtier to please that great (STATES-MAN and) MINISTER, who supports, and those whom he represents at the same Time: And if he endeavours to oblige *both*, he becomes such an uncertain Weathercock, that most commonly he pleases neither. And therefore the most prudent and honestest of the Courtiers are observed to decline being Parliament-Men, for this Reason.

3. Meddle not with such as have been, or are likely to be *Pensioners*, or receive Sallaries for *Secret Services*. I know there was a Time when some People would assert, and brazen it out, that there were no such Men, no such Practices. But the contrary is notorious. Did not the House of Commons once take the Matter into Examination?

Nay,

Nay, did not Sir S. F. by his Memory (without the Books, which for some Reason were refused to be brought in) name about Thirty of them, and the respective Sums yearly paid to each? And would not many more have been discovered, and the whole Knot of them severely and exemplarily punished, if that Parliament had a little longer continued. Whatever others may say, yet I will not take upon me to affirm that such clandestine and illegal Methods have been practised since that Time; but, in my humble Judgment, it would have been very conducive to the true Interest of *Great Britain*, if the *Pension-Bill* had pass'd both Houses of Parliament at the last Sessions; nor am I without Hopes of its Success, if not in this, yet in a future Parliament. — No Man can be more implacably your Enemy, than that Person whose Interest it is to destroy you; who must neither eat nor drink, except you starve; who must go in Rags, except you go naked; who is taught to fleece you, that he may keep himself warm. To prevent This, avoid not only all former Pensioners, but such other as may be in Danger to become so: Wherefore meddle not with Men of Necessitous Fortunes, or much in Debt. The Representatives of a Nation ought to consist of the most Wise, Wealthy, Sober, and Courageous of the People; not Men of mean Spirits, and little Figure, and sordid Passions, that would sell the Interest of the People that chose them, to advance their own, or be at the Beck of some *Great Man*, in Hopes of a Lift to a good Employment. They who have fair Estates, have in a Manner given Hostages to their Country, and must be errant Fools, before they can play the Knave with you. But cares the needy Passenger if the Ship perish, provided he can save himself in the Long-Boat, or get some Booty by the Wreck? What Protection do you expect from them, who cannot

shew their Faces with Confidence, except they have a Protection in or out of Parliament? Who are no less apprehensive of a *Bailiff*, than of the once growing Power of *France*; and dread not *Popery* half so much as an *Out-Lawry*? Will you secure them within the Walls of the House of Commons, who were better secured within the Walls of a common Goal? Who can never pay their Debts contracted by their Prodigality, but out of your Purses, and must run you in, to get themselves out of their Mortgages? These Men's Fear of being Dissolved, makes them submit to any Thing, rather than be left to the unmerciful Rage of their hungry Creditors, who have so long fasted for their Money. For all such Persons (tho' some of them may be looked upon as honest, fair-conditioned Gentlemen, and good House-keepers) are in Danger of being tempted to repair the Decays of their own private Fortunes, by the Ruin of the Publick. In a Word, if you chuse Beggars to be your Representatives, how can they judge what is expedient for the Nation to spare, whose only Care is, to get a Piece of Money to spend?

4. As you are not unadvisedly to chuse such as retain to the Court at Home, so much less are you to elect any such as have a Dependance upon Foreign Princes or States, or are attached to them or their Interest; such Men are under strong Obligations to see you ruined. For your own Reason will tell you, that no Foreign Power will throw away his *Pièces*, where he expects not an Harvest answerable to his Seed. 'Tis possible this Caution may not be unnecessary, for 'tis more than suspected, that there are some such degenerated *Britons*, who having forsaken the Interest of their native Country, have sold themselves to an Outlandish Interest, that they may the better gratify their own Ambition, and those potent Lusts, which their own meane

meaner Fortunes could not otherwise feed or satiate.

5. Receive not any Bribes or Gratifications ; for such Persons who offer them, would fain make a Prey of you, and by their Purses, lavish Treats and Entertainments, would allure you to prostitute your Voices for their Elections. You may be assured they would never bid so high for your Suffrages, if they did not know where to make their Markets. Chuse the Worthy unwilling Person before the complimentary Unworthy Man, whose extraordinary Forwardness prognosticates he seeks not your Good, but his own, separate from the Publick. Let us not play the Fools or the Knaves, to neglect or betray the common Interest of our Country, by a base Election ; let neither Fear, Flattery, or Gain bias us. Consider with yourselves, what Losers you will be, if to Laugh and be Merry one Day, the Person you chuse should give you and your Children occasion to Mourn ever after.—Say not, *he is a single Person, one Man cannot do such Hurt.* Silly and ridiculous Expression ! What if all other Places should be as bad as yourselves ? then all the House would be of a Piece ; and besides, do you not know, that sometimes a single Man has carried a Vote, which perhaps was no less mischievous than irretrievable ? Think how justly the gallant ancient Heathens might, if they could peep out of their Graves, upbraid the Baseness of us Christians, when as they sacrificed many of their Children, nay, and oftentimes their own Lives, for the Good of their Country ; we, on the contrary, do sacrifice, or at least hap-hazard, our Religion, Lives, Children and Country, to the swinish Pleasure of a Day or two's Debauchery, and the insatiable Lust after sordid Gain. Or if our Children should be spared, yet think what Reason we give them to curse us, when through our Covetousness they

they shall be loaded with Taxes which they, nor their Children's Children, can expect to see discharged.

6. Make not your publick Choice the Recompence of private Favours ; 'tis not to please a Neighbour, because he is rich and powerful, but to save *Great Britain* that you are to regard. Neither pay or return private Obligations at the Cost of the Nation. Sir *John* is a pretty Gentleman ; Sir *Robert* keeps open House, and treats People civilly, when he comes into the Country ; my Landlord is a good Man, and has been kind ; and 'Squire such a one is our next Justice of the Peace ; but, what then ? I will not give either of them my Vote contrary to my Conscience, or have a Hand in a Choice that may ruin my Country, to any, or all of them. Let no such Engagements put you upon dangerous Elections, if you regard, or love, your own Freedom, and the Liberties of your Posterity : Tell them, in this Affair they must hold you excused, for that the Weight of the Matter will well bear it ; this is your Inheritance, All may depend upon it. 'Tis a more modest Request, if they would desire you to give them that Freehold and Estate, that qualifies you for an Elector, than to press you to be for a Man, that in your Conscience you think unfit, or not so fit as his Competitor, for such a weighty Trust. Men do not use to lend their Wives, or give their Children, to satisfy personal Kindnesses ; nor ought you to make a Swop of your Birth-right (and that of your Posterity too) for a Mess of Potage, a Feast, or a lusty Drinking-Bout : There can be no Proportion here, and therefore none can take it ill that you use your Freedom about That, which, in its Constitution, is the *Great Bulwark* of your ancient Liberties.

7. Beware of Ambitious Men, and Non-Residents, such as live in *London* and *Westminster*, or
Parts

Parts adjacent, that they may be ready at an Hour or two's Call, at half a Day's Warning; when they ought to be with their Estates in the Country, and consult the Interest and Welfare of the County with the Freeholders whom they represent, and punctually execute such Instructions as they shall receive from them. Such Men seek *Honours* and *Preferment* above, and little or never make the County the better with their Expences or *Hospitality*. They lay their own *private Interest* and *Pleasure* too much at Heart to act *vigorously* for the *Ease* and *Advantage* of their *Country*: And if in the *House* they swagger a little for a while, and speak *briskly*, it is done with no other View or Intention than to be taken off from the *Scent* by a *Pension*; or *Preferment*, worth their Acceptance. What then can you expect from such *False Patriots*? Can you be so wretchedly silly to hope for fair *Play*, *Justice*, or *Equity* from them?

8. Let no Temptations persuade you to chuse Persons who are just arrived to the Years of *Maturity*, or in plainer *English*, who are turned of One and Twenty Years of Age. Will you be content with Beardless Politicians? Callow Statesmen; *Rehoboam's* Counsellors? Then expect, for you well deserve it, to be lashed with *Scorpions*. Can you expect them fit and qualified to dispose of your *Liberties*, *Lives*, *Estates*, and *Religion*, who scarce know how to dispose of their own *Estates* or themselves? What Security can such Persons, who have but just *started* into Men, give you, that they will not give away *Yours* and *You*, whose Bond, in the Eye of the Law, would not be taken for Forty *Shillings*, a Month (or suppose it to be twelve Months) before they had taken their Seats in *Parliament*? But sure your own Experience of what such young *Green-Horns* have done in former *Parliaments*,

liaments, will (I hope) teach you sufficient Wisdom, not to chuse the like again.

9. Elect no Prodigal or Voluptuous Person, for they are not regular enough to be Law-Makers; they are commonly idle and negligent, and though possibly they may wish well to your Interest, yet they will chuse to abandon it than their Pleasures; they will not quit an Entertainment, omit going to a Play, or an Assembly, or leave one of their Nightly Revellings, to give you their Attendance or Service the next Day in Parliament, and consequently they are not to be relied on. Upon this Occasion I shall borrow the Words of an Author, to whom I do not much desire to be beholden.

“ Some Senators are drawn from their Duty by Pleasure; perhaps a Party at *Tennis*, *Bowls*, *Cards*, a *Pack of Hounds*, a *Cock-fight*, or a *Horse-Match*, a *Good-fellow*, or a *Mistress*: And while they are thus employ'd, the vigilant Faction steals a Vote, that is worth a Kingdom.— Some again are so transported with the Vanity of Dress and Language, that rather than serve the Publick with one Hair amiss, or in one broken Period, they will let the Publick perish; *Mallent Rempublicam turbari, quam capillos*. These, while their Country lies at Stake, are ordering their Heads, polishing the Phrase, and shaping the Parts of a Set-Speech, 'till it is too late to use it. Nothing, methinks, does less besem a grave Assembly, than this *Facultatula loquendi*, this same Rhetorical Twittle-twattle; it spins out so much Time in tedious Circumstance, that it makes a Man e'en sick of a good Cause, and for the very Form prejudge the Reason of it.— Sloth and Neglect are yet more dangerous in a Senator, in Regard of Surprises from the Faction,

“tion ; these think a wet Day, or a cold Morning, a sufficient Discharge of their Attendance ; and while they are taking t’other Nap, or t’other Bottle, the Monarch perhaps has lost his Crown, or the Subject his Liberty.”

10. Avoid all those who play the *Church of England-Men* in Disguise, whether *Papists* or *Dissenters*, who are ready to pull off the Mask on the first Opportunity, whenever it serves. You may know the former by their swaggering for a *Papish* King to maintain the *Protestant* Religion ; their associating with known *Papists*, and winking at them : These Men, whose Affection for the *Protestant* Interest, notwithstanding all their fair Speeches, may be justly question’d, since their Practice gives their Words the Lye. Nor will their large Pretensions, and seeming Zeal for the *Church of England*, prevail with *Wise Men* ; for we know the *Papists* themselves, when ’tis for their Interest, will pretend the same Thing, and speak fair of the *Church*. And that this is their Aim, may be perceived, if you observe how zealous they are to stir up Persecution against *Protestants*, and none more joyful than they when they bring this old Maxim to bear, *Divide & impera*, disunite the *Protestants*, and then you will soon reduce them to Slavery. Therefore beware how you chuse any such *Tools* whom they make Use of for that Purpose ; for they would introduce a blind Obedience without (if not against) Conviction : And that Principle which introduces implicit Faith, and a blind Obedience in Religion, will also introduce the same in Government, so that it will be no more the Law in the one than in the other, but the Will and Power of the Superior, that will be the Rule and Bond of our Subjection : This is that fatal Mischief *Papery* brings with it into Civil Society, and for which all such Societies ought to be aware of it, and its Friends and Abettors, which

sure none can be, but such who are designed for Slaves by Nature as well as by Fortune ; lewd, unthinking Animals ; silly, servile, yet conceited and cruel Creatures. Call to Mind how many *Protestants* suffer'd Martyrdom during the short Reign of that bloody Tyrant, Queen *Mary* the First, without whose Assistance she could not have come to the *English* Throne ; and remember that the *Suffolk-Men*, who were the *First* that took up Arms in her Defence, were also the *first* who were made Sacrifices to her *Popish* Fury. Forget not the Massacre in *Ireland*, where no less than One Hundred and Fifty-two Thousand *Protestants* were butchered in the most inhuman Manner, and all in one Day, without any Regard had to Age or Sex.

11. Chuse not one who in any Respect dissent from the Church of *England* ; they have more Indulgence already than they deserve ; and to grant them more would be to furnish them with Weapons to bring the *Church-Men* under Subjection to them. Look upon them as Fire and Water, good Servants but the worst Masters. They will talk much, when it squares with their Advantage, in Favour of the Church ; but it is all Dissimulation and Design ; they are modern *Pbarisees*, Hypocrites, who love the *uppermost Places*. They are as inveterate Enemies to the Ceremonies of the Church of *England*, as to those of the Church of *Rome*, and consequently abhor the Members of both : The Sight of a *Surplice* gives them Spleen, and they look upon *Lawn-Sleeves* as the Emblem of *Popery*. They are naturally Tyrannical and Cruel ; they have an Aversion to Saints, but are most diabolically zealous for the Memory of their own *Red-lettered* Saint, *Oliver Cromwell*. King-killing is their favourite Principle ; and nothing could be more pleasing to them, than to have it in their Power once more to turn our *Churches* into *Stables*, pull down

their

their Steeples, and destroy the Altars. Let me therefore advise you, my Countrymen, not to give your Votes for these *Pantile-Christians*, nor indeed for any who are in their Interest, and would enlarge their Liberties ; for if you once qualify them to be upon a *Level* with you, they will soon make themselves your *Superiors*. Keep them under, and the Church of *England* will flourish ; advance them, and they will pull her down to the Ground, and eraze her Foundation : Be therefore cautious and circumspect, and let not their fair Promises, and outward Shew of Piety, delude you.

12. As for you Citizens, Burgeesses and Freemen of Cities and Corporations in particular, I shall only say, *That whoever is not fit to be chosen Knight of the Shire, is likewise unfit to be chosen a Burgess* : And let not the more *specious Pretences* of any Man, that shall promise you to build a Town-Hall, or relieve the Poor with Money, or furnish you with Timber out of his adjacent Woods, deceive you ; for if so, you will not be wiser than your Horses, whom you catch every Day, and put Bridles in their Mouths, only by shewing them a few Oats, which they are never like to eat. Even the very Mice are too wise to be taken with an old Bait ; but the Trap must be new baited before they will meddle : And yet I have known a Corporation, that has been taken *Twice* by the same Bait. But suppose these Men do really perform what they have promised, will that, do you think, be a Compensation, if the same Men should lay a good swinging Tax upon you, without any real Cause ? or if they should give the very Power you have of sending your Representatives in Parliament (for one bad Parliament may ruin us) what Good would the Money for your Poor do in such a Case more than, that when you are thereby reduced to Beggary, you might, perhaps, yourselves (the Gentry of the Country having

no Reason to relieve you) be forced to come into a small Share of this their hypocritical Charity? An excellent Reward for a Knavish Folly! Neither say, *Ob!* this is but one Man, and can have but one Vote; but he will do our Town a great deal of Good, and do us but little Hurt if he would, &c. For, first, (as I told you before) one or two Voices have, sometimes, carried a Vote of great Importance. Secondly, you know not what Mischief your bad Example may do in other Corporations; and if All should tread in the same Path with you, what a miserable Case would you be in, since the Voices of the Boroughs make two Thirds of the House? Lastly, No Body can tell the Influence that one cunning Talkative Man may get over the rest of the House; especially over those that weigh *Words* more than *Sense, Reason, or the Interest* of their COUNTRY.

Hitherto we have talked Negatives, and described such as are *Not* fit to be chosen; now we come positively to set before you, who are fit for such a Trust, in such a dangerous Juncture, as, we suppose, you may fall into. In order to which, we must consider for what Ends they serve; and they are principally two. The first is the Preservation of our Religion from *Papery* and *Fanaticism*: The other is to preserve our Liberty and Property, according to the known Laws of the Land, without giving unto, or Introduction of, that Absolute and Arbitrary Rule practised in Foreign Countries, which we are neither to imitate or regard. Therefore,

1. Take Care to chuse such as are well known to be Men of good Consciences, thoroughly principled in the Religion of the Church of *England*, and of high Resolution to maintain it with their Lives and Fortunes. And among these, rather cast your Favours upon Men of large Principles, (I mean in Matter of meer Opinion) such as will not sacrifice

fice their Neighbour's Property and Civil Rights to the Frowardness of any Party. Narrow Souls, that will bear none but those who bear their own Image and Superscription, will sooner raise *Persecution* and *Sedition* at Home, than secure us from *Popery* and *Invasion* abroad. *The great Interest of England, at this Day, is to Tolerate the Tolerable*, to bear with the Weak, to encourage the Conscientious, and to restrain such as would restrain All besides themselves.

2. We ought, as near as we can possibly judge, to Elect good Church of *England*-Men towards God, and just towards Men; yet since, in this corrupt Age, Men are not so spiritual as they ought to be, it is not amiss to seek for those whose Spiritual Interest is seconded by a Temporal one: For though Men talk high, and keep a great Noise with Conscience and Love to their Country, yet when you understand Mankind right (not as it should be, but as it is, and, I fear, ever will be) then you will find that private Interest is the Ring in the Bear's Nose that governs the Beast. Therefore the surest Champions for our Religion (*ceteris paribus*) against *Popery* are our *Abbey-Landed-Men*. For notwithstanding the Registered Dispensation from the *Pope* to King *Henry the VIIIth* for seizing those Monasteries and Lands, yet it is pretended that the *Pope* had no *Power* to alien them from the Church; so that the present *Possessors* can never trust or rely upon that, or any new *Promises*, or Actual Grants thereof from him, whose everlasting and declared Maxim it is, *Never to keep Faith with Heretics*. Undoubtedly, to make easy his Ascent to the Saddle, he will profer many Assurances and Grants, but if the *Abbey-Landed-Men* are not the most silly of All others, they will never believe him. For when he is once firmly settled, then will he, with his *Canon-Law* Distinctions, like Fire under Quick-Silver, evaporate

evaporate away all his *Promises*, and violently resume the Lands, glorying of his own Bounty, if he requires not the *Issues* and *Profits*, ever since they have been (as he calls it) sacrilegiously withheld from Holy Church.

3. Endeavour to chuse Men of Wisdom and Courage, who will not be hector'd out of their Duty by the Frowns and Menaces, or seduced by the Bribes and Flattery of *Great Men*. You never had more need to pitch upon the old *English* Spirit, that durst be Faithful and Just against All Temptations. What a degenerate Race have we known, that could never resist Smile or Frown, but tamely sunk before their own Convictions, and knew the Evil they did, yet durst not but commit it?

4. Observe the Conduct and Behaviour of Persons in former Parliaments, whether they have honestly discharged the Trust that had been reposed in them; if they have not obey'd your Directions, but have endeavoured to entail Taxes upon you and your Posterity, and would in Time have **EXCISED** even your very Teeth, and not have suffered you to enjoy One Part in Ten of your Properties; or would have turn'd the Method of collecting the Taxes out of its natural Channel; sure you would not be so infatuated to elect such Men a Second Time, and invest them with *Power* to destroy your *Liberty* and *Property*, and make you Slaves and Beggars for ever. In like manner, they, who are guilty of *Corruption*, of *Embezzling* the Publick Money, of *Bribery*, or of any clandestine and unlawful Actions, are unworthy of your Choice; and as *Corrupters* and *Bribe-givers*, are not fit to represent Honest Men, so neither are they who are *Corrupted*, or have *Stain'd* their Hands with Bribes proper Persons to be entrusted by you. And as God did set a Mark upon *Cain*, that he might

be

be known, so do you also set a Mark upon *Pensioners*, who right or wrong, and against their own Consciences, will Vote in Opposition to the Interest of their Country. Chuse therefore Men with clean Hearts and clean Hands, for Persons of Probity and Integrity, and who are averse to Arbitrary Power, are the only Men, who ought to be the Representatives of an Honest and Free People.

5. Make it your Busines to chuse such as are resolved to stand by and maintain the *Power and Privileges of Parliaments*, (for they are the Heart-Strings of the Commonwealth) together with the *Power* and just *Right* of the King, according to the Laws of the Kingdom, so as the one may not Intrench upon the other. And such also, who with a true *English* Courage will prosecute All *Traytors*, whether already *Impeached*, or to be *Impeached*, and to remove all *Corrupt* and *Arbitrary* Ministers of State, wicked Judges, and vile *Pambleeteers*, who would *Poison the People*, and gloss over the execrable Actions of *Great Men*, from whom such *Hirelings* receive their Wages.

Lastly, Take particular Notice of those who are Men of Industry and Improvement, who are well versed in Trade, and will not cramp or clog it; for such as are Ingenious and Laborious to propagate the Growth and Advantage of their Country, will be very tender of yielding to any Thing that may Weaken or Impoverish it.

If you conduct yourselves thus *Prudently*, *Honestly*, and *Gallantly*, in your Choice, without putting the Gentlemen, whom you chuse to serve you, to Expences, the Consequence will be, that as you will be sure to have a good Parliament, whenever his Majesty shall please to call a new one, and such as will be zealous for the Safety of the *Protestant Religion*, and *Prosperity* of the Nation, while they shall continue to Sit and Act; so on the contrary,

when

when they shall be *Dissolved*, and never so many new *Parliaments* be called, yet you run no Hazard, for the same Candidates will still be ready to serve you. Here by the Way I must observe, that anciently all *Freemen* of *England* (though not *Freeholders*) had a Right to chuse their *Representatives*, till the same was alter'd and limited by the following Statute, for the Reasons therein mentioned.

The Statute Anno 8 Hen. VI. Cap. 7.

What Sort of Men shall be Chusers, and who shall be chosen Knights of the Parliament.

Item. **W**HEREAS the Elections of Knights of the Shires, to come to the Parliaments of our Lord the King, in many Counties of the Realm of England, have now of late been made, by very Great, Outrageous, and Excessive Numbers of People, dwelling within the same Counties of the Realm of England, of the which most Part was of People of small Substance, and of no Value, whereof every one of them pretended a Voice Equivalent, as to such Elections to be made, with the most worthy Knights and Esquires, dwelling within the same Counties, whereby Manslaughter, Riots, Batteries, and Divisions among the Gentlemen and other People shall very likely rise and be, unless convenient and due Remedy be provided in this Behalf. Our Lord the King considering the Premises, hath provided, ordained and established by Authority of this present Parliament, that the Knights of the Shires to be chosen within the said Realm of England, to come to the Parliament of our Lord the King hereafter to be holden, shall be chosen in every County in the Realm of England, by People dwelling and resident in the same Counties, whereof every one of them shall have Land or Tenement to

the

the Value of Forty Shillings by the Year, at the least, above all Charges. And that they which shall be so chosen, shall be dwelling and resident within the said Counties. And such as have the greatest Number of them, that may expend Forty Shillings by the Year and above, as afore is said, shall be returned by the Sheriff of every County, Knights for Parliament, by Indentures sealed betwixt the said Sheriffs, and the said Chusers so to be made. And every Sheriff of the Realm of England, shall have Power by the said Authority, to examine upon the Evangelists, every such Chuser, how much he may Expend by the Year. And if any Sheriff return Knights to come to the Parliament, contrary to the said Ordinance, the Justices of the Assizes, in their Sessions of Assizes, shall have Power, by the Authority aforesaid, thereof to enquire. And if by Inquest, the same be found before the Justices, and the Sheriff thereof shall be duly attainted, that then the said Sheriff shall incur the Pain of One Hundred Pounds, to be paid unto our Lord the King, and also that he have Imprisonment by the Year, without being let to Mainprise or Bail. And that the Knights for the Parliament, return contrary to the said Ordinance, shall lose their Wages.

Provided always, that he which cannot expend Forty Shillings by Year, as aforesaid, shall in no wise be Chusers of the Knights for the Parliament. And that in every Writ that shall hereafter go forth to the Sheriffs, to chuse Knights for the Parliament, Mention be made of the said Ordinances.

N O T E, Though this Statute makes the Penalty on the Sheriff but One Hundred Pounds, yet by a late Act he is subject to the Penalty of Five Hundred Pounds; and the House may further punish him by Imprisonment, &c. at their Pleasure by the Law and Custom of Parliaments.

Of Parliaments, their Power, and Business.

The Word PARLIAMENT is French, and derives its Name from the three Words *Parler la Mēt*, to speak one's Mind; because every Member of that Court, should sincerely and discreetly speak his Mind for the general Good of the Commonwealth; and this Name (says the Lord Coke, *Instit. Fol. 110.*) was used before *William*, vulgarly, but erroneously called the Conqueror, even in the Time of *Edward the Confessor*. But most commonly in the *Saxons* Time it was called *Midcbemote* or *Witenage Mote*, that is, the *Great Mote* [Meeting or Assembly, whence our *Ward-Motes* in *London* receive their Name to this Day] or the *Wise Mote*, that is, the Assembly of the Wise Men or Sages of the Land.

But this Word *Parliament* is used in a double Sense. First, strictly, as it includes the Legislative Power of *Great Britain*, as when we say—*An Act of Parliament*: And in this Acceptation it necessarily includes the King, the Lords, and the Commons, each of which have a *Negative Voice* in making Laws, and without their joining Consent, no new Laws can pass, that are obligatory to the Subject. Secondly, the Word is used for the *Two Houses*, the Lords and Commons, as when we say the King will Call a Parliament, his Majesty has Dissolved his Parliament, &c.

The Lords of Parliament are divided into two Sorts, *viz.* *Spiritual*, that is to say, the Bishops, (who sit there in Respect of their *Baronies*) parcel of their *Bishopricks*, which they hold in Politick Capacity; and *Temporal*, who are the Peers of the Land.

The Commons are likewise divided into three Classes or Parts, *viz.* Knights or Representatives of

of the Shires or Counties ; where Note, though the Writ requires two Knights to be chosen, and that they are called Knights, yet there is no Necessity that they should actually have the Degree of Knighthood, provided they be but Gentlemen ; for the Statute 23 Hen. VI. Cap. 15. hath these Words, *That the Knights of the Shires for the Parliament hereafter to be chosen, shall be notable Knights of the same Counties, for which they shall be chosen ; OR OTHERWISE such Notable Esquires or Gentlemen born of the same Counties, as shall be able to be Knights, and no Man to be such Knight, which standeth in the Degree of a Yeoman and under.*

Secondly, Citizens chosen to represent Cities.

Thirdly, Burgeesses, that is to say, those that are chosen out of Boroughs.

Note, That the Difference between a City and a Borough is this ; a City is a Borough Incorporate, which is, or has been within Time of Memory an Episcopal See, or had a Bishop ; and this, (although the Bishoprick be dissolved, as *Westminster*, having heretofore a Bishop, though none now) still remains a City. *Coke, 1 Inst. Sect. 164.* Boroughs are Towns Incorporate, but such as never had any Bishops.

There has been a great Debate about the *Three Estates*, some zealously pleading, That the Bishops are one of the Three Estates of the Realm, the Lords Temporal a Second, and the Commons-house the Third, and the King over all as transcendant by himself ; others as stiffly deny this, and assign the King (as he is the Head of the Commonwealth to be the First Estate ; the Lords, as well Spiritual as Temporal, jointly to be the Second ; and the Common House the Third.

We shall not presume to undertake a Decision of this arduous Controversy, but in our poor Opinion the Matter seems to appear more difficult than in Reality it is, by Means that the contending Parties do not first plainly set down what it is they severally mean by the Word *Estate*. It may be taken, first, for a Rank, Degree, or Condition of Persons considered by themselves, different in some notable Respects from others wherewith they may be compared. And in this Respect, my Lords the Bishops may be very properly be said to be an *Estate*, or one of the Estates of the Realm; for then there will be several Estates above the Number Three, for so in the House of Commons there may be said to be Three Estates, *viz.* *Knights*, *Citizens*, and *Burgesses*. And heretofore, in the Days of Popery, when there were Twenty-six Abbots and Priors that held *per Baroniam* too, as well as the Bishops, called to the Parliament, and sat in the Lords House, whether they being Religious or Monastical Persons, whereas the Bishops were Seculars, (no small Difference in their Accounts) may not as well claim to be a distinct Estate by themselves, as the Bishops did lately, may be a Question.

But Secondly, when we speak of three Estates in the Constitution of our *British* Government, 'tis most natural to mean and intend such a Poize in the Balance, or such an Order or State, as hath a Negative Voice in the Legislative Power; for as the *King* and *Commons* exclude the *Lords*, so neither the *King* and *Lords* excluding the *Commons*, much less the *Lords* and *Commons* excluding the *King*, can make any Law; but this glorious *Triplexity* must be in mutual *Conjunction*, and then from their united Influences spring our happy Laws. But in this Sense the *Lords Spiritual* by themselves have no Pretence to be a *Distinct Estate*: That is, they have not by themselves a Negative Voice, which I conceive

conceive the proper *Characteristic* or *Essential Mark* of each of the Three Estates ; for suppose a Bill pass the *Commons*, and being brought into the House of Lords, all the Twenty-six Bishops should be against it, and some of the Temporal Lords, yet if the other Temporal Lords be more in Number than the Bishops, and those that side with them, the Bill shall pass as the *Act* of the whole House ; and if his Majesty please to give it his Royal Assent, is undoubtedly a *Law*. This is a Demonstration that the Bishops have not of themselves a Negative Voice, and consequently are not one of the Three Estates of the Realm. But if any one will have them called an Estate, and mean something else by it, if he please to explain his Notion, 'tis like I shall not contend with him about a fiddle-faddle Word.

Touching the Power of the Parliament, the Jurisdiction of this Court (says *Coke*, 1 *Insti. Sect.* 164.) is so Transcendant, that it maketh, enlargeth, diminisheth, abrogateth, repealeth, and reviveth Laws, Statutes, Acts and Ordinances concerning Matters *Ecclesiastical*, *Civil*, *Martial*, *Marine*, *Capital*, *Criminal*, and *Common*. And 4 *Insti. Fol.* 36. the Power and Jurisdiction of the Parliament for making Laws in proceeding by Bill is so Transcendant and Absolute, as it cannot be confined either for *Causes* or Persons within any Bounds.

Sir *Thomas Smith*, a great Statesman, and in high Esteem and Place under Queen *Elizabeth*, in his *Treatise de Republica Anglorum*, Lib. 2. Cap. 2. gives this Character of this supreme Court. *In Comitiis Parliamentariis, posita est omnis Augustæ, absolutæque potestatis vis, veteres leges jubent esse irritas, novas inducunt; præsentibus juxta & futuris modum constituunt; Jura & Possessiones bonum privatorum commutant, Spurios Natalibus restituunt,*

restituunt, cultum divinum Sanctionibus corroborant ; pondera & mensuras variant ; Jus in Regno Succendi præscribunt, &c. The most high and absolute Power of the Realm of England consisteth in the Parliament, for the Parliament abrogateth Laws, maketh new, giveth Order for Things past, and for Things hereafter to be followed, changeth the Rights and Possessions of private Men ; legitimateth Bastards, corroborateth Religion with Civil Sanctions, alters Weights and Measures ; **PRESCRIBES THE RIGHT OF SUCCESSION TO THE CROWN** ; Defines doubtful Rights, where there is no Law already made ; appointeth Subsidies, Taxes, and Impositions ; giveth most free Pardons ; restoreth in Blood and Name, &c.

As for the Power of Parliaments over both Statute and Common Law, take it in the Accurate and Significant Words of a Parliament, viz. The Statute of 25 Hen. VIII. Cap. 21. — *Whereas this Realm recognizing no Superior under God, but the King, hath been, and is free from any Man's Laws, but only to such as have been devised, made, and ordained within this Realm, for the Wealth thereof, or to such other as the People of this Realm have taken at their free Liberty, by their own Consent to be used amongst them ; and have bound themselves by long Use and Custom, to the Observance of the same ; not to the Observance of the Laws of any Foreign Prince, Potentate, or Prelate, but as to the accustomed and ancient Laws of this Realm, originally Established as Laws of the same by the said Sufferance, Consents, and Custom, and none otherwise. It standeth therefore with natural Equity and good Reason, that all and every such Laws Humane, made within this Realm, or induced into this Realm by the said Sufferance, Consents, the King and the Lords Spiritual and Temporal, and Commons, representing the whole State of the Realm, in the most*

High

High Court of Parliament, have full Power and Authority to dispense with these and all other Laws of the Realm, and with every one of them, as the Quality of the Persons and Matter shall require. And also the said Laws, and every of them, to abrogate, annul, amplify, or diminish, as to the King, Nobles, and Commons, present in Parliament, shall seem most meet and convenient for the Wealth of the Realm.

Thus far that notable Statute, which in Truth is only declarative, and in Affirmance of the Ancient Common-Law of England.

By what has been said, you may perceive that the Work of our Parliament is not (as some would have it) only to be Keys to unlock the People's Purses. That is but one Part, and perhaps one of the least Parts too of their Office. They are to propose new Laws that are wanting for general Good, and to press the Abrogation of Laws in Being, when the Execution of them prejudicial or dangerous to the Publick. They are to provide for Religion, and the Safety and Honour of the Nation; they have a Power (as you have heard from Sir Thomas Smith) to order the Right to the Crown, (but it must be with the King's Consent) and they have frequently undertaken and limited the same, contrary to, and different from, the common Line of Succession. Nay, by the Statute 23 of Eliz. Cap. 23. it is expressly enacted, *That if any Person shall, in any wise, hold, and affirm, and maintain, that the Queen, with and by the Parliament of England, is not able to make Laws and Statutes of sufficient Force and Validity, to limit and bind the Crown of this Realm, and the Descent, Limitation, Inheritance, and Government thereof, or any other Statute to be made by the Authority of the Parliament of England, with the Royal Assent for limiting the Crown, is not, are not, or shall not, or ought not to be for ever of good and sufficient Force and Validity*

duty to Bind, Limit, Restrain, and Govern all Persons, their Rights and Titles, that in any wise may or might claim any Interest or Possibility in or to the Crown of England in Possession, Remainder, Inheritance, Succession, or otherwise howsoever, and all other Persons whatsoever, every Person so holding, affirming, or maintaining, during the Life of the Queen, shall be adjudged a High Traitor, and suffer and forfeit, as in Cases of High Treason is accustomed, and every so holding, affirming, or maintaining after the Decease of our said Sovereign Lady shall forfeit all his Goods and Chattels.

The last mentioned *Clause* and *Penalty* are to this Day in Force, and ought to be considered by every one who shall now pretend that an *Act of Parliament* cannot dispose of the *Succession*.

As for the Right of making War and Peace, the same is granted to be Part of the *Prerogative* of our Kings, yet the wisest of our Monarchs have very rarely entered into War without the Consent of Parliaments. For, *First*, Who could give them better Counsel in such a difficult *Affair*? *Secondly*, the People more readily expose their Persons in such a War, the Justice and Expediency whereof was approved by their *Representatives*. *Thirdly*, the King from thence may more certainly promise himself of Money to carry on the same.

But nothing is more properly the *Work* of a *Parliament*, than to redress *Grievances*; to take *Notice* of *Monopolies* and *Oppressions*; to curb the *Exorbitances* of *pernicious Favourites*, and *ILL MINISTERS of State*; to punish such mighty *Delinquents* as look upon themselves too *BIG* for the ordinary *Reach* of *Justice*; to inspect the *Conduct* of such as are entrusted with *Administration* of the *Laws*, or *Disposal* of the *Publick Treasure* of the *Nation*: All *Crimes* of these and the like Kinds are *publick Nuisances*, common *Mischiefs*, and wound the whole *Body*

Body Politick in a vital Part, and can scarce at all be found out or redressed (by Reason of the Power and Influence of the Offenders) but in this Great and Aweful Senate, before whom the haughtiest *Criminals* tremble; and it has been observed that they scarce ever prosecuted any, (though never so great, or highly in Favour at *Court*) but sooner or later they hit him, and it proved his Ruin. Take a few Examples: King *Edward* the Second doted upon *Pierce Gaveston*, (a *French* Gentleman) he *wastes* the King's *Treasures*, has *undeserved Honours* conferred on him, affronts the ancient Nobility. The Parliament, in the Beginning of the King's Reign, complains of him; he is banished into *Ireland*. The King afterwards calls him Home, and marries him to the Earl of *Gloucester's* Sister; the Lords complain again so effectually, that the King not only consents to his second Banishment, but that if ever he returned, or were found in the Kingdom, he should be held and proceeded against as an *Enemy of the State*. Nevertheless, back he comes, and is received once more by the King as an *Angel*, who carries him with him into the *North*, and hearing the Lords were in Arms to bring the said *Gaveston* to Justice, plants him for Safety in *Scarborough Castle*, in which being taken, his Head was chopp'd off.

In King *Richard* the Second's Time, most of the Judges of *England*, to gratify certain *corrupt* and *pernicious Favourites* about the King, being sent for to *Nottingham*, were by Persuasions and Menaces prevailed with to give false and illegal Resolutions to certain Questions proposed, declaring certain Matters to be *Treason*, which in Truth were not so; for which in the next Parliament they were called to Account and attainted. Sir *Robert Tresilian*, Lord Chief Justice of *England*, was drawn from the *Tower* to *Tyburn*, and there hanged: So likewise was *Blake*, one of the King's *Council*; and *Uske* the

Under-Sheriff of *Middlesex*, who was to pack a Jury to serve the present *Turn*, against certain innocent Lords, and others, whom they intended to have taken off: Five more of the Judges were banished, and their Lands and Goods forfeited. The Archbishop of *York*, the Duke of *Ireland*, and the Earl of *Suffolk*, three of the King's *Evil Counsellors*, were forced to fly, and died miserable Fugitives in Foreign Parts.

In the Beginning of *Henry the Eighth's Reign*, Sir *Richard Empson*, Knight, and *Edmund Dudley*, one of the Barons of the *Exchequer*, having, by Colour of an *Act of Parliament* to try People for several Offences without *Juries*, committed great Oppressions, were proceeded against in Parliament, and lost their Heads.

In the *Nineteenth Year of the Reign of King James the First*, at a Parliament holden at *Westminster*, there were shewn (saith *Baker's Cron. Fol. 418.*) two great Examples of Justice, which for future Terror are not unfit to be here related. Sir *Giles Mompesson* (a Gentleman otherwise of good Parts) having been guilty of sundry Abuses, in erecting and setting up new Inns and Alehouses, and exacting great Sums of Money of People, by Pretence of Letters Patents to him for that Purpose, was sentenced to be deprived from his Knighthood, and disabled to bear any Office in the *Common-Wealth*, but he avoided the Execution by flying out of the Land. Sir *Francis Mitchel*, a Justice of the Peace of *Middlesex*, and one of the Chief Agents, the Sentence of Degradation was executed, and he made to ride with his Face to the Horse-Tail through the City of *London*. The other Example was on Sir *Francis Bacon*, Viscount *St. Albans*, Lord Chancellor of *England*, who for Bribery was put from his Place, and committed to the *Tower*.

In King *Charles* the First's Time, most of the Judges that had given their Opinions contrary to Law in the Case of *Ship-Money*, were called to Account and forced to fly for the same.

In the Nineteenth Year of King *Charles* the Second, the Earl of *Clarendon*, Lord Chancellor of *England*, being questioned in Parliament, and retiring thereupon beyond the Seas, was by a special Act banished and disabled. In a Word, it was well and wisely said by that excellent Statesman, Sir *William Cecil*, Lord *Burleigh*, and High Treasurer of *England*, *That he knew not what an Act of Parliament might not do*; which Apotheasm was approved by King *James* the First, and alledged (as I remember) in one of his published Speeches.

As the Jurisdiction of this *Court* is so transcendent, so the Rules and Methods of Proceedings there are different from those of other Courts. For (says *Coke*, 4. *Instit.* Fol. 15. *As every Court of Justice bath Laws and Customs for its Direction, some by the Common Law, some by the Civil and Canon Law, some by peculiar Laws and Customs, &c. so the High-Court of Parliament, (suis propriis Legibus & Contudinibus subsistit,) subsists by its own peculiar Laws and Customs.* *It is Lex & Consuetudo Parliamenti, the Law and Custom of Parliament, that all weighty Matters in any Parliament moved concerning the Peers and Commons in Parliament assembled, ought to be determined, adjusted and discussed by the Course of Parliament, and not by the Civil Law, nor yet by the Common Laws of this Realm used in more inferior Courts: which was so declared to be secundum Legem & Consuetudinem Parliamenti, according to the Law and Custom of Parliament, concerning the Peers of the Realm, by the King and all the Lords spiritual and temporal; and the like, pari Ratione, for the same Reason, is for the Commons, for any Thing moved or done in the House of Commons: and*

the rather, for that by another Law and *Act* of Parliament the King cannot take Notice of any Thing said or done in the House of Commons, but by the Reproof of the House of Commons ; and every Member hath a judicial Place, and can be no Witness. And this is the Reason that Judges ought to give any Opinion of a Master of Parliament, because it is not to be decided by the Common Law, but secundum Legem & Consuetudinem Parliamenti, according to the Law and Custom of Parliament : and so the Judges in diverse Parliaments have confessed. And some hold that every Offence committed in any Court, punishable in that Court, must be punished (proceeding criminally) in the same Court, or in some higher, and not in any inferior Court ; and the Court of Parliament hath no higher.

In the Reign of King Charles the Second, great Complaints were made about the *House of Commons* sending for some Persons into Custody by their Serjeant at Arms ; but certainly they did no more therein, than what their Predecessors had often done ; every Court must be supposed armed with a Power to defend itself from *Affronts* and *Insolencies*. In all Ages, when the *House* hath appointed particular *Committees*, hath it not been usual to Order that they should be impowered to send Papers, Persons, and Records ? But to bring Men to a sober Consideration of their Duty and Danger, I shall give a few Instances, besides those before mentioned, of what the *House of Commons* have done in former Ages.

First, 20. *Jacobi prim.* Dr. *Hains*, Minister of *Bleecblyng in Surry*, for misbehaving himself by Preaching, and otherwise, about the Election of *Members of Parliament*, upon Complaint, was called to the *House of Commons*, and there, as a Delinquent on his Knees, had Judgment to confess his Fault there, and in the Country, in the Pulpit of his Parish Church, on *Sunday* before Sermon.

Secondly,

Secondly, in the same Year, the Mayor of Arundel, for misbehaving himself in an Election, by putting the Town to a great deal of Charge, not giving a due general Warning, but packing a Number of Electors, was sent for by Warrant, and after ordered to pay all the Charge, and the *House* appointed certain Persons to adjust the Charges.

Thirdly, 23 *Jacobi prim.* *Ingry*, Under-Sheriff of *Cambridgeshire*, for refusing the Poll upon the Promise of Sir *Thomas Steward* to defend him therein, kneeling at the Bar, received his Judgment to stand committed to the Serjeant at Arms, and to make Submission at the Bar, and to acknowledge his Offence there, and to make a farther Submission openly at the Quarter Sessions, and there also to acknowledge his Fault.

Fourthly, 3 *Car. I.* Sir *William Wray* and others, Deputy Lieutenants of *Cornwal*, for assuming to themselves a Power to make whom they pleased Knights, and defaming those Gentlemen that then stood to be chosen, sending up and down Letters for the Militia to appear at the Day of Election, and menacing the Country under the Title of *His Majesty's Pleasure*, had Judgment given upon them to be committed to the *Tower*, and also to make Recognition of their Offence at the Bar of the *House* upon their Knees; which was done. Likewise, to make a Recognition and Submission at the Assizes in *Cornwal*, in a Form drawn by a *Committee*.

Fifthly, But most remarkable are the Proceedings in the same Parliament, *Anno 1628*, against Dr. *Manwaring*, who being there charged with preaching and publishing offensive Sermons, and the same referred to a *Committee*; they brought in their Reports, which was delivered to the *House* with this Speech :

Mr.

MR. SPEAKER,

I am to deliver from the Sub-Committee a Charge against Mr. Manwaring, a Preacher and Doctor of Divinity, but a Man so criminous, that he hath turned his Titles into Accusations; for the better they are, the worse is he, that hath dishonoured them. Here is a great Charge that lies upon him; it is great in itself, and greater because he hath so many great Charges in it: Serpens, qui Serpentem devorat, sit Draco; his Charge having digested many Charges in it, is become a Monster of Charges. The main and greatest one is this, a Plot and Policy to alter and subvert the Frame and Fabrick of State and Commonwealth. This is the greatest one, and it hath others in it that gains it more Greatness; for to this End he labours to infuse into the Conscience of his Majesty, the Persuasion of a Power not bounding itself by Law, which King James, of famous Memory, calls in his Speech in Parliament, 1619, Tyranny, yea, Tyranny accompanied with Perjury.

Secondly, He endeavours to persuade the Consciences of the Subjects, that they are bound to obey illegal Commands; yea, he damns them for not obeying them.

Thirdly, He robs the Subjects of the Property of their Goods.

Fourthly, He brands them that will not lose this Property with most scandalous and odious Titles, to make them hateful both to Prince and People, so to set a Division between the Head and Members, and between the Members themselves.

Fifthly, To the same End (and not unlike to Faux and his Fellows) he seeks to blow up Parliaments and Parliamentary Power. These Five being duly viewed, will appear to be so many Charges, and withal they make up the main and greatest Charge, a mischievous Plot to alter and subvert the Frame and Government of this State and Commonwealth. And now that you may

may be sure that Mr. Manwaring, though he leaves us no Property in our Goods, yet he hath an absolute Propriety in his Charge ; Audite ipsam Belluam ; bear Mr. Manwaring, by his own Words making up his own Charge.

Here he produced the Books, particularly insisting on p. 19, 29, and 30, in the first Sermon ; p. 35, 36, and 48, in the second Sermon. All which Passages he heighten'd with much Eloquence and Acrimony ; thus concluding his Speech, *I have shewed you an Evil Tree, that bringeth forth Evil Fruit ; and now it rests with you to determine whether the following Sentence shall follow, Cut it down, and cast it into the Fire.*

Four Days after the Parliament proceeded to his Censure, consisting of Eight Particulars, it being ordered by the House of Lords against him, as followeth.

First, To be imprisoned during the Pleasure of the House.

Secondly, To be fined One Thousand Pounds.

Thirdly, To make his Submission at the Bar in this House, and in the *House of Commons*, at the Bar there, *in Verbis Conceptis*, a set Form of Words framed by a Committee of this House.

Fourthly, To be suspended from his Ministerial Function Three Years, and in the mean Time a sufficient Preaching-Man to be provided out of the Profits of his Living, and this to be left to be performed by the *Ecclesiastical Courts*.

Fifthly, To be disabled for ever hereafter from preaching at *Court*.

Sixthly, To be for ever disabled of having any *Ecclesiastical Dignity* in the *Church of England*.

Seventhly, To be uncapable of any Secular Office or Preferment.

Eighthly,

Rightly, That his Books are worthy to be burred, and his Majesty to be moved that it may be so in London, and both Universities.

And accordingly he made his humble Submission at both the Bars in Parliament on the Three and Twentieth Day of June following, and on his Knees, before both Houses, submitting himself with outward Expressions of Sorrow, as follow.

I do here in all Sorrow, and true Repentance, acknowledge those many Errors and Indiscretions which I have committed in preaching and publishing the Two Sermons of mine, called Religion and Allegiance, and my great Fault in falling upon this Theme again, and handling the same rashly, scandalously, and unadvisedly, in my own Parish-Church in St. Giles's in the Fields, the Fourth of May last past. I humbly acknowledge these three Sermons to be full of dangerous Passages and Inferences, and scandalous Aspersions, in most Part of them. And I do humbly acknowledge the just Proceedings of this Honourable House against me, and the just Sentence and Judgment passed upon me for my great Offence. And I do from the Bottom of my Heart crave Pardon of God, the King, and this Honourable House, and the Common-weal in general, and those worthy Persons adjudged to be reflected upon me in particular for these great Offences and Errors.

The Sentence and Penalty inflicted on Dr. Marrow bridled the Mouths of many hot-headed Preachers for almost a Century, who were terrified by his Example from preaching the Slavey Doctrine of an unlimited Submission; but in the Reign of Queen Anne, Dr. Sacheverell began to take up the Cudgels, and preached one Sermon at the Assizes held at Derby, and another at St. Paul's before the Lord Mayor of London and Court of Aldermen. He was called to an Account for them by the Parliament, and several Passages in the latter Sermon

were

were principally insisted on by the Committee: He had preached the same Sermon at Oxford in the Year 1692; and when he had been requested by Letter to preach before the Lord Mayor on the 5th of November, being the Anniversary of the Gunpowder Plot, whereby it was designed to have blown up the King, the Royal Family, and both Houses of Parliament, pursuant to the Scheme laid by the *Papists* to accomplish their Intention; the Doctor, instead of exposing and laying such diabolical Machinations and the Contrivers and Abettors of them, scarce made any Mention of them at all, but passing over the Subject of the Day, revived the *Papist* Doctrine of *Passive Obedience* and *Non-Resistance* upon any *Pretence whatsoever*; and inveighed as bitterly against the *Dissenters* in general, as the *Papists* do against all *Heretics*; and he alledged that the *Church was in Danger*, whereby he grossly reflected upon the said Queen *Anne*, and the then Ministry. He was tried before the House of Lords, and by them found guilty, and Sentence was passed upon him; but as the Trial is so fresh in our Memories, I shall forbear making any further Mention thereof.

The Truth is, 'tis the High Court of Parliament that only can hinder the Subject from being given up as a Prey to the Arbitrary Pleasure, not only of the Prince, if he should attempt it, but (which is ten times worse) to the unreasonable Passions and Lusts of *Favourites*, *Chief Ministers*, and *Women*; when otherwise, instead of a Monarch, (who as sometimes it may happen shall govern but in Name) we might be ruled by an insolent *Major of the Palace*, like the ancient *French*, who will be sure to mind the private Interest of *himself and Family*, more than that of the *Prince*, or *Publick Good*; or like the *Turkish Empire* under a weak Grand *Seignior*, by the prevailing Concubine of the *Seraglio*.

who is perhaps herself managed by no other Dictates, than that of her chief Eunuch, or She-slave. It is strange therefore to observe the impotent Ambition of some Men, (and such as, with Shame let us speak it, boast themselves *Englishmen* too) who (provided they may trample upon and domineer over their Inferiors) care not how much their Superiors do the like over them. Their Souls (like most insolent Men's) being mean enough to submit thereunto. Who can enough deplore and abhor the Stupidity of some lazy and insignificant Gentlemen, who care not how Things go, provided they may enjoy their Hawks, Hounds, and Bowling-Green Meetings; whilst not only for Divinity, but Politicks too, they are governed by their impudent Chaplain, or the Parson of the Parish? Nothing is more obvious, than the Designs of some covetous, sycophant Clergymen, who, like Ivy, tho' it cannot grow without the Support of the Oak, and yet will destroy it at last, do in private Parlours, over their Glass, whilst Healths go round, set up Absolute Monarchy to be *Jure Divino*, declaiming against the unreasonable Stubbornness of any Parliament that will not give away the People's Money; and submit themselves to be fleeced as often as the *Prime Minister* or *Favourite* think fit: They cry up the Prince as an Angel, so long as he will be their Executioner to *Whip*, *Imprison*, or *Hang* all that will not truckle to their *Pride* and *Avarice*; or refuse to give up their Souls, once again to be managed by an implicit Faith, whereby in the mean Time these *buffish Policy-brokers* might not be troubled with those uneasy Tasks of *Preaching*, *Praying*, *Studying*, &c. but may have nothing else to do, but to live at Ease, keep their Coach and Horses, with a silly Curate to do all their Drudgery; while they themselves are making Addresses above, by flattering and informing at some Nobleman's or

Bishop's

Bishop's Table ; or else, if their Parts reach so high, by some formal and fulsome Sermon they teach that Men have no Property either in their Lives or Goods, but only during the Prince's Pleasure, &c. And yet should the same Prince offer to intrench upon them, they would immediately run Counter to their former Doctrine, and roaring out, like the Bulls of *Bashan*, cry, What ! Divest us of our Glebe ? Deprive us of our Tithes ? Invade our Properties ? and rob us of our Liberties contrary to the Laws and Statutes of the Land ? If there be not a Parcel of *Things* as these, who call themselves *Divines*, then no body is concerned in this Character ; if there be, they are the worst of Men, and ought not only to be exposed, but severely punished.

Therefore at present, as we live under so happy a Government, where being securely landed ourselves, we behold the Shipwreck of our Neighbours, it is therefore the indispensible Interest and Duty of every *True Briton* to maintain these Privileges conveyed from their Ancestors, through so many Generations, inviolable ; upon which all our (Earthly, and in a great Measure our Spiritual) Happiness, Safety, and Well-being depends. Nor can any Man in his Senses but acknowledge that the only right Way to attain that End, is to look well to the Means, and that is by taking due Care what Persons they chuse for their *REPRESENTATIVES*, with whom they must trust their *Estates, Lives, and Liberties*.

Now this Government of a Prince by and with Parliaments, whenever the Condition and Necessities of the State require them, however according to its primitive Constitution it was the best of all others ; yet as well in that, as in Christianity itself, there have been found out Ways of *Corruption*, and that is, when either they sit too long, or too seldom, or are too frequently dissolved ; too frequent Dissolu-

lutions being no less dangerous to the Subject, than too long Sessions. Nevertheless, it may be in the Electors to avoid the Inconveniences of both, and that is by making a Good Choice.

Whereas if the Country People will sell All that they have for a little Roast Beef, a Glass of Wine, and a Pot of Ale, chusing him that will give them most Drink To-day, though they know him to be a Person who will sell their Religion, Liberties, and Fortunes To-morrow ; then frequent Dissolutions will inevitably ruin us, and utterly debauch this excellent Constitution ; for the honest Country Gentleman, desiring no other Advantage than serving his King and his Country, hath no Reason, nor is he able, once in Half a Year, to spend 4 or 500*l.* only to purchase a Place full of Labour, Charge, Trouble, and Danger, without any Profit to himself, only to serve those who put him to such an unkind Expence. And when Honest Loyal Gentlemen are thus discouraged, if this *Scottish* Humour among the Electors continue, the *Papists*, and their Faction, or necessitous Persons, will carry their Votes ; for they can afford to buy them at large Rates, being resolved to repay themselves, though with the Ruin of the Nation.

This is no vain Surmise, or idle Speculation, but the very Truth of the Case ; and the meanest Countryman that hath Eyes in his Head, and will use them, cannot but see it. Did you ever know a Coachman, or Groom, buy his Place, unless he designed to rob his Master's Bin ? For as long as Places are vendible, and bestowed upon him that offereth most, we shall always see that for Money such as are most Ignorant, the worst Livers, and Unworthiest, will be first and chiepest. Now what Justice can be hoped from such Men ? For after they are once placed therein, their chiepest Aim is to reap Gain and Profit, according to what Money they

they gave for it. What is more natural for such Men than to say, Did my Place cost me so much? then I must make thus much of it: For if I had employ'd my Money elsewhere, I might have had Interest or Inheritance. They therefore that sell their Votes, sell the Commonwealth, sell themselves, the Blood of their Fellow-Subjects; they sell the Laws, and in a Word, sell the most sacred Thing in the World, which is JUSTICE. And truly they, who buy the People's Votes, are as much to be reproved as they who sell them; because they minister Life and Nourishment to that monstrous *Hydra*, Covetousness and Lucre, which sucks up and devours the Substance of the Poor. 'Tis true, indeed, that by a late Act of Parliament a severe Penalty is laid upon those who buy or sell Votes; but still there are so many Ways of transacting such an Affair in Secret, that it is greatly to be feared, that such a necessary and wholesome Law will not effectually answer the desired End. Therefore whoever you put to Charges in your Elections, censure him not, if he makes Money again of what he bought and lays out his Vote in the House, not for your Good, and that of the Publick, but in that Way that will best please the *Ministers of State*, or other *Great Men*, whereby he may get a good Place or Preferment, and perhaps a Title of Honour into the Bargain. Though he himself be a base Wretch for so doing, yet you cannot blame him, since you did not lend him your Trust, but sold it to him; and it is allowed that what a Man hath purchased with his Money, he may sell again.

Therefore that Man that does wilfully give his Voice to one that is disaffected, or disposes of it by the Way of Sale to any Person, does his Endeavour to ruin his Country, himself, and his Posterity, and to be as bad or worse than the Person he chuses; and if the greater Part of the House happen to be Wiser,

Wiser, or Honest, it is no Thanks to him ; he did as much as he could to debauch it ; and therefore, for his Part, if none else were concerned with him, it were no Matter if he was forthwith made a Slave.

The before-mentioned old Lord Treasurer Burleigh, who is thought to have been the greatest Statesman that ever this Nation bred, did frequently deliver as a Maxim, or rather as a Prophecy, *That England can hardly be ruined, unless it be by her own Parliament* ; foreseeing undoubtedly that other Oppressions wrought by Violence, might perhaps by Violence be in Time shaken off again : Whereas in a Parliamentary Way we may be undone by a Law that can never be reversed, but by a down-right Rebellion, because the Parties advantaged by that Law will never agree to the Repealing of it ; and Rebellion is so dangerous, and imprints so black a Character, that Men either Rich or Conscientious will not engage therein. Therefore no publick Mischief is so grievous as that which is grown into a Law ; and nothing, you know, can be so, but what is imposed upon you by Parliament. Such is the happy Frame of your Government, so prudently, and so strongly have your Ancestors secured Property and Liberty, (rescued by Inches out of the Hands of encroaching Violence) that you cannot be enslaved, but with Chains of your own making ; for as you are never undone till you are undone by Law, so you can never be undone by Law till you chuse the undoing Legislators ; and may not your Enemies add *Scorn* to their Cruelty, and pretend Justice for both, when they can plead they had never trampled on your Heads, had you not laid them on the Ground ?

From what has been premised to you, it evidently appears of what vast Importance it is at all Times, whenever his Majesty pleases to call a new Parliament,

ment, to chuse (as much as in us lies) a good House of Commons, as we tender our Religion, Liberty, and Posterity ; upon our well or ill Chusing depends our well or ill Being : 'Tis here, as in Marriage or War, there is no Room for second Errors, one Act may ruin a Nation beyond Retrieve.

Besides, they whom you chuse, will represent the Qualities as well as the Persons ; and if you send up a false Glass, it will represent you with an ugly Face : You have had the Repute of an Ancient and Grave People ; but if you chuse raw Saplings, Green-heads, unexperienced, beardless young Men, whose Age of One or Two and Twenty Years entitles them to be called Men, the World will judge of you, as they once did of the *Grecians*, that you were either always Children, or are grown *twice* so. You have been long a Famous, Religious Protestant Nation ; but if you chuse debauched, swearing Atheists, Men of no Religion, or such as are mere Formalists, or inclinable to Popery, what can the World think, but that the Nation has lost its Sense of Religion, and is content to be led back into the *Egyptian* Darkness of *Romish* Fopperies ? You have formerly had the Character of a Sober Temperate Nation, but if you chuse Drunkards for your Trustees, or give your Voices for those who gorge you with Liquor, what can be supposed but that you are already drunk with Folly, and just reeling into Slavery ?



APPENDIX.

**Anno Tricesimo primo Caroli Secundi
Regis. Chap. 2.**

An Act for the better securing the Liberty of the Subject, and for Prevention of Imprisonments beyond the Seas, commonly called the Habeas Corpus Act.

1. **W**HEREAS great Delays have been used by Sheriffs, Goalers, and other Officers, to whose Custody any of the King's Subjects have been committed for Criminal, or supposed Criminal Matters, in making Returns of Writs of *Habeas Corpus*, to them directed by standing out an *Alias* and *Phories*, *Habeas Corpus*, and sometimes more, and by other Shifts to avoid their yielding Obedience to such Writs, contrary to their Duty, and the known Laws of the Land, whereby many of the King's Subjects have been, and hereafter may be long detained in Prison, in such Cases where they are by Law Bailable, to their great Charge and Vexation.

2. For the Prevention whereof, and more speedy Relief of all Persons Imprisoned for any such Criminal, or supposed Criminal Matters: Be it Enacted by the King's most Excellent Majesty, by and with the Advice of the Lords Spiritual and Temporal, and Commons in this present Parliament Assembled, and by the Authority thereof,

That

That whensoever any Person or Persons, shall bring any *Habeas Corpus*, directed to any Sheriff or Sheriffs, Goaler, or Minister, or other Person whatsoever, for any Person in his or their Custody, and the said Writ shall be served upon the said Officer, or left at the Goal or Prison, with any of the Under-Officers, Under-Keepers, or Deputy of the said Officers or Keepers, that the said Officer or Officers, his or their Under-Officers or Keepers or Deputies shall within Three Days after the Service thereof as aforesaid (unless the Commitment aforesaid were for Treason or Felony, plainly and specially expressed in the Warrant of Commitment) upon Payment or Tender of the Charges of bringing the said Prisoner to be ascertain'd before the Judges, or Court that awarded the same, and Endorsed upon the said Writ not exceeding Twelve-pence *per Mile*, and upon Security given by his own Bond to pay the Charges of carrying back the Prisoner, if it shall be remanded by the Court or Judge, to which he shall be brought to the true Intent of this present Act, and that he will not make any Escape by the Way, make Return of such Writ. And bring or cause to be brought the Body of the Party so committed or restrained, unto or before the Lord Chancellor, or Lord Keeper of the Great Seal of *England* for the Time being, or the Judges or Barons of the said Court, from whence the said Writ shall Issue, or unto or before any other Person or Persons before whom the said Writ is made returnable, according to the true Command thereof. And shall then likewise certify the true Causes of his Detainer, or Imprisonment, unless the Detainer, or Commitment of the said Party be in any Place beyond the Distance of Twenty Miles from the Place or Places, where such Court or Person is, or shall be residing; and if beyond the Distance of Twenty Miles, and not above One

Hundred Miles, then within the Space of Twenty Days after such the Delivery aforesaid, and not longer.

3. And to the Intent that no Sheriff, Goaler, or other Officer may pretend Ignorance of the Import of any such Writ, Be it enacted by the Authority aforesaid, That all such Writs shall be marked in this Manner *Per Statuum Tricesimo primo Caroli Secundi Regis*, and shall be signed by the Person that awards the same. And if any Person or Persons, shall be, or stand committed or detained as aforesaid, for any Crime, unles for Felony or Treason, plainly expressed in the Warrant of Commitment in the Vacation Time, or out of Term, it shall and may be lawful to and for the Person or Persons so committed or detained (other than Persons convict, or in Execution) by legal Proces, or any one on his or their Behalf, to appeal or complain to the Lord Chancellor, or Lord Keeper, or any or one of his Majesty's Justices, either of the one Bench or the other, or the Barons of the *Exchequer* of the Degree of the Coif. And the said Lord Chancellor, Lord Keeper, Justices, or Barons, or any of them upon View of the Copy or Copies of the Warrant or Warrants of Commitment and Detainer, or otherwise upon Oath made by such Person or Persons, or upon his, her, or their Behalf, attested and subscribed by two Witnesses, who were present at the Delivery of the same, to award and grant an *Habeas Corpus* under the Seal of such Court, whereof he shall then be one of the Judges; to be directed to the Officer or Officers in whose Custody the Party so committed or detained, shall be returnable immediately before the Lord Chancellor, or Lord Keeper, or such Justice, Baron, or any other Justice or Baron of the Degree of the Coif; of any of the said Courts. And upon Service thereof as aforesaid, the Officer

Officer or Officers, his or their Under-Officer or Officers, Under-Keeper, or Under-Keepers, or Deputy, to whose Custody the Party is so committed or detained, shall within the Times respectively before limited, bring such Prisoner or Prisoners before the said Lord Chancellor or Lord Keeper, or such Justices, Barons, or one of them, before whom the said Writ is made returnable, and in Case of his Absence, before any other of them, with the Return of such Writ, and the true Causes of the Commitment and Detainer. And thereupon within two Days after the Party shall be brought before them, the said Lord Chancellor, or Lord Keeper, or such Justice or Baron, before whom the Prisoner shall be brought, as aforesaid, shall discharge the said Prisoner from his Imprisonment, taking his or their Recognizance, with one or more Surety or Sureties in any Sum according to their Discretion, having Regard to the Quality of the Prisoner, and Nature of the Offence, for his or their Appearance in the Court of *King's-Bench* the Term following, or at the next Assizes, Sessions, or General Goal-Delivery of and for such County, City or Place, where the Commitment was, or where the Offence was committed, or in such other Court where such Offence is properly Recognizable as the Case shall require, and then shall certify the said Writ, with the Return thereof, and the said Recognizance and Recognizances into the said Court, where such Appearance is to be made. Unless it shall appear unto the said Lord Chancellor, or Lord Keeper, or Justice or Justices, Baron or Barons, that the Party so committed is detained upon a Legal Process, Order, or Warrant of some Court, that hath Jurisdiction of Criminal Matters, or by some Warrant signed and sealed with the Hand and Seal of any of the Justices or Barons, or some Justice or Justices of the Peace for such Matter

or Offences, for which by the Law the Prisoner is not Bailable.

4. PROVIDED always, and be it enacted, That if any Person shall have wilfully neglected by the Space of two whole Terms, after his Imprisonment, to pray a *Habeas Corpus* for his Intarge-ment, such Person so wilfully neglecting, shall not have any *Habeas Corpus* in Vacation Time in Pursuance of this Act.

5. Be it further enacted by the Authority aforesaid, That if any Officer or Officers, his or their Under-Officer or Under-Officers, Under-Keeper or Under-Keepers, or Deputy, shall refuse to make the Returns aforesaid, or to bring the Body or Bodies of the Prisoners according to the Command of the said Writ, within the respective Times aforesaid, or upon Demand made by the Prisoner, or any Person in his Behalf, shall refuse to deliver a true Copy of the Warrant or Warrants of Commitment and Detainer of such Prisoner, which he or they are hereby required to deliver accordingly, All and every the Head Goalers and Keepers of such Prisons, and such other Person, in whose Custody the Prisoner shall be detained, shall for the first Offence, forfeit to the Prisoner, or Party grieved, the Sum of One Hundred Pounds: And for the Second Offence, the Sum of Two Hundred Pounds, and shall and is hereby made incapable to hold or execute his said Office: The said Penalties to be recovered by the Prisoner, or Party grieved, his Executors or Administrators, by any Action of Debt, Suit, Bill, Plaintiff or Information in any of the King's Courts of *Westminster*, wherein no Essoign, Protection, Privilege, Injunction, Wager of Law, or Stay of Prosecution by *Non vult ultius prosequi*, or any more than One Imparlement shall be allowed, and any Recovery or Judgment at the Suit of any Party grieved, shall be a sufficient.

cient Conviction for the first Offence, and any after Recovery or Judgment at a Suit of a Party grieved for any Offence after the first Judgment, shall be a sufficient Conviction to bring the Officers or Person within the said Penalty for the Second Offence.

6. And for the Prevention of unjust Vexation by re-iterated Commitments for the same, Be it enacted by the Authority aforesaid, That no Person or Persons, which shall be delivered or set at Large upon any *Habeas Corpus*, shall at any Time hereafter be again Imprisoned or Committed for the same Offence, by any Person or Persons whatsoever, other than by the Legal Order, or Process of such Court wherein he or they shall be bound by Recognizance to appear, or other Court having Jurisdiction of the Cause. And if any other Person or Persons shall knowingly contrary to this Act Re-commit or Imprison, or knowingly procure or cause to be Re-committed or Imprisoned for the same Offence or pretended Offence, any Person or Persons delivered or set at large as aforesaid, or be knowingly Aiding or Assisting therein, then he or they shall forfeit to the Prisoner or Prisoners so grieved the Sum of Five Hundred Pounds, any colourable Pretence, or Variation in any Warrant or Warrants of Commitment notwithstanding, to be Recovered as aforesaid.

7. PROVIDED always, and be it further enacted, That if any Person or Persons shall be committed for High Treason, or Felony, plainly and specially expressed in the Commitment, upon his Prayer or Petition in open Court the First Week of the Term, or First Day of the Sessions of *Oyer and Terminer*, or General Goal Delivery, to be brought to his Tryal, shall not be Indicted some Day in the next Term, Sessions of *Oyer and Terminer*, or General Goal Delivery after such

Com-

Commitment, it shall and may be lawful to and for the Judges of the Court of King's Bench, and Justices of Oyer and Terminer, or General Goal Delivery, and they are hereby required upon Motion to be made in open Court the last Day of the Term, Sessions, or General Goal Delivery, either by the Prisoner or any one in his Behalf, to set at Liberty upon Bail, unless it appear to the Judges and Justices upon Oath made, that the Witnesses for the King could not be produced the same Term, Sessions, or General Goal Delivery. And if any Person or Persons Committed as aforesaid, upon his Prayer or Petition in open Court, the First Week of the Term, or First Day of the Sessions of Oyer and Terminer, and General Goal Delivery, to be brought to his Tryal, shall not be Indicted and Tryed the Second Term, Sessions of Oyer and Terminer, and General Goal Delivery, after his Commitment, or upon his Tryal shall be acquitted, he shall be discharged from his Commitment.

8. PROVIDED always, That nothing in this Act shall extend to Discharge out of Prison any Person charged in Debt, or other Action, or with Process in any Civil Cause, but that after he shall be discharged from Imprisonment for such his Criminal Offence, he shall be kept in Custody according to Law for such other Suit.

9. PROVIDED always, and be it enacted by the Authority aforesaid, That if any Person or Persons, Subjects of this Realm, shall be Committed to any Prison, or in Custody of any Officer or Officers whatsoever, for any Criminal or supposed Criminal Matter, That the said Person shall not be removed from the said Prison or Custody into the Custody of any other Officer or Officers, unless it be by *Habeas Corpus*, or some other Legal Writ, or where the Prisoner is delivered to the Constable or other Inferior Officer to carry such Prisoner to some

some Common Goal, or where any Person is sent by Order of any Judge of Assize, or Justice of the Peace to any Common Workhouse, or House of Correction: Or where the Prisoner is removed from one Prison or Place to another within the County, in order to his or her Tryal in due Course of Law: Or in Case of sudden Fire, or Infection, or other Necessity. And if any Person or Persons shall after such Commitment aforesaid, make out and sign, or countersign any Warrant or Warrants for such Removal aforesaid, contrary to this Act, as well he that makes or signs, or countersigns such Warrant or Warrants, as the Officer or Officers that obey or execute the same shall suffer and incur the Pains and Forfeiture in this Act before-mentioned, both for the first and second Offence respectively, to be recovered in Manner aforesaid by the Party grieved.

10. PROVIDED also, and be it enacted by the Authority aforesaid, That it shall and may be law-
ful to and for any Prisoner and Prisoners as afore-
said, to move, and obtain his or their *Habeas Corpus*, as well out of the High Court of Chancery, or Court of Exchequer, as out of Courts of King's Bench, or Common Pleas, or either of them. And if the said Lord Chancellor, Lord Keeper, any Judge or Judges, Baron or Barons for the Time being, of the Degree of the Court of any of the Courts aforesaid in the Vacation Time, upon View of the Copy or Copies of the Warrant or War-
rants of Commitment or Detainer, or upon Oath made that such Copy or Copies were denied as aforesaid, shall deny any Writ of *Habeas Corpus*, by this Act required to be granted, being moved as aforesaid, they shall severally forfeit to the Prisoner or Party grieved, the Sum of Five Hundred Pounds, to be recovered in Manner aforesaid.

11. And be it enacted and declared by the Authority aforesaid, That an *Habeas Corpus* according to the true Intent and Meaning of this Act, may be directed and run into any County *Palatine*, within the Kingdom of *England*, Dominion of *Wales*, or Town of *Berwick upon Tweed*, and the Isles of *Jersey* and *Guernsey*, any Law or Usage to the contrary notwithstanding.

12. And for preventing illegal Imprisonments in Persons beyond Seas, Be it further Enacted by the Authority aforesaid, That no Subject of this Realm that now is, or hereafter shall be an Inhabitant or Resident of this Kingdom of *England*, Dominion of *Wales*, or Town of *Berwick upon Tweed*, shall or may be sent Prisoner into *Scotland*, *Ireland*, *Jersey*, *Guernsey*, *Tangier*, or into any other Parts, *Garrisons*, Islands, which are, or at any Time hereafter shall be within or without the Dominions of his Majesty, his Heirs or Successors. And that every such Imprisonment is hereby enacted and declared Illegal. And that, if any of the said Subjects now is, or hereafter shall be so Imprisoned, every such Person or Persons so Imprisoned, shall and may for every such Imprisonment, maintain by Virtue of this Act, an Action or Actions of False Imprisonment in any of his Majesty's Courts of Record, against the Person or Persons, by whom he or she shall be Committed, Detained, Imprisoned, sent Prisoner, or Transported, contrary to the true Meaning of this Act, and against all and any Person or Persons, that shall Frame, Contrive, Write, Seal, or Countersign any Warrant or Writing for such Commitment, Detainer, Imprisonment, or Transportation, or shall be Advising, Aiding, or Assisting in the same or any of them. And the Plaintiff in every such Action shall have Judgment to recover his Treble Costs, besides Damages, which Damages so to be given shall be no less

less than Five Hundred Pounds: In which Action no Delay, Stay, or Stop of Proceeding, by Rule, Order, or Command, nor no Injunction, Protection, or Privilege whatsoever, or any more than one Imparlane shall be allowed, Excepting such Rule of the Court where the Action shall Depend, made in open Court, as shall be thought in Justice necessary for Special Cause to be Expressed in the said Rule. And the Person or Persons, who shall knowingly Frame, Contrive, Write, Seal, or Counterseal, any Warrant for such Commitment, Detainer, or Transportation, or shall so commit, detain, imprison, or transport any Person, or Persons, contrary to this Act, or be any wise Advising, Aiding, or Assisting therein, being lawfully convicted thereof, shall be disabled thenceforth to any Office of Trust or Profit within the said Realm of *England* and *Wales*, or Town of *Berwick* upon *Tweed*, or any of the Islands, Territories or Dominions thereunto belonging; and shall incur and sustain the Pains and Penalties, and Forfeitures, limited, ordained, and provided in and by the Statute of *Provision* and *Premunire*, made in the Sixteenth Year of King *Richard* the Second; and be incapable of any Pardon from the King, his Heirs or Successors, of the said Forfeitures, Losses, or Disabilities, or any of them:

13. P R O V I D E D always, That nothing in this Act extend to give Benefit to any Person, who shall by Contract in Writing with any Merchant, or Owner of any Plantation, or other Persons whatsoever, to be transported beyond the Seas, and receive Earneſt upon such Agreement, although that afterward such Person shall renounce such Contract.

14. P R O V I D E D always, and be it enacted, That if any Person or Persons, lawfully convicted of any Felony, shall in open Court pray to be transported beyond the Seas, and the Court shall think fit to leave him or them in Prison for that Purpose, such Person or Persons may be transported into any Parts

beyond the Seas : This Act, or any Thing contained to the contrary, notwithstanding.

15. PROVIDED also, and be it enacted, That nothing herein contained shall be deemed, construed, or taken to Extend to the Imprisonment of any Person before the first Day of June, One Thousand Six Hundred Seventy and Nine ; or to any thing advised, procured, or otherwise done relating to such Imprisonment : any thing herein contained, notwithstanding.

16. PROVIDED also, That if any Person or Persons, at any time resident in this Realm, shall have committed any capital Offence in *Scotland*, or *Ireland*, or in any of the Islands, or Foreign Plantations of the King, his Heirs, or Successors, where he or she ought to be tried for such Offence, such Person or Persons may be sent to such Place, there to receive such Trial, in such Manner as the same might have been used before the making of this Act, any thing herein contained to the contrary, notwithstanding.

17. PROVIDED always, and be it enacted, That no Person or Persons shall be sued, impleaded, molested for the same within two Years for the most after such Time wherein the Offence shall be committed, in case the Party grieved shall not be then in Prison ; and if he shall be in Prison, then within the Space of two Years after the Decease of the Person imprisoned or his or her Delivery out of Prison, which shall first happen.

18. And to the Intent that no Person may avoid his Trial at the Assizes or General Goal-Delivery, by procuring his Removal before the Assizes, at such Time as he cannot be brought back to receive his Trial there : Be it enacted, That after the Assizes proclaimed for that County where the Prisoner shall be detained, no Person shall be removed from the common Goal upon any *Habeas Corpus* granted in Pursuance of this Act ; but upon any such *Habeas*

Cor-

Corpus, shall be brought before the Judge of Assize in open Court, who is thereupon to do what to Justice shall appertain.

19. PROVIDED nevertheless, That after the Assizes are ended, any Person or Persons detained may have his or her *Habeas Corpus*, according to the Direction and Intention of this Act.

20. And be it also enacted by the Authority aforesaid, That if any Information, Suit, or Action, shall be brought or exhibited against any Person or Persons for any Offence committed against the Form of this Law, it shall be lawful for such Defendants to plead the General Issue, that they are not Guilty, or that they own Nothing, and to give such special Matter in Evidence to the Jury that shall try the same, which Matter being pleaded, had been good and sufficient in Law to have discharged the said Defendant or Defendants against the said Information, Suit, or Action, and the said Matter shall then be as available to him or them, to all Intents and Purposes, as if he or they had sufficiently pleaded, set forth, or alledged the same Matter in Bar, or Discharge of such Information, Suit, or Action.

21. And because many times Persons charged with Petty-Treason or Felony, or as Accessaries thereunto, are committed upon Suspicion only, whereupon they are bailable or not, according as the Circumstances making out that Suspicion, are more or less weighty, which are best known to the Justices of the Peace that commit the Persons, and have the Examination before them, or to other Justices of the Peace for the County: Be it therefore enacted, That where any Person shall appear to have been committed by any Judge, or Justice of the Peace, and charged accessory before the Fact, to any Petty-Treason or Felony, or upon Suspicion thereof, or with Suspicion of Petty-Treason or Felony, shall be plainly and specially expressed in the Warrant of Commitment, that such Person shall not

be removed by Virtue of this Act, or in any other Manner than they might have been before the making of this Act.

REMARKS.

THREE are Three Things which the Law of *England* (which is a Law of *Mercy*) principally regards and taketh Care of, *viz.* *Life*, *Liberty*, and *Estate*. Next to a Man's Life, the nearest Thing that concerns him is *Freedom* of his Person ; for indeed what is Imprisonment but a Kind of *Civil Death* ? Therefore, says *Fortescue*, Cap. 42, *Anglia Jura in omni Casu Libertati dant favorem*. The Laws of *England* do, *In All Cases*, favour *Liberty*.

The Writ of *Habeas Corpus* is a Remedy granted by the Common Law, for such as are unjustly detained in Custody, to procure their Liberties, but before this Statute was rendered far less useful than it ought to be, partly by the Judges, pretending a Power to grant or deny the said Writ at their Pleasure, in many Cases, and especially by the ill Practices of Sheriffs and Goalers, by putting the Prisoner to the Charge and Trouble of an *Alies* and *Pluries*, (that is, a second and third Writ, before they would obey the first, for there was no Penalty till the third) and then at last the Judges would oftentimes alledge, that they could not take Bail, because the Party was a *Prisoner of State*, &c. Therefore, to remedy all those Mischiefs, this wholesome Law was provided, which we shall briefly endeavour to divide into its several Branches, and explain it to the meanest Capacities, since no Man is sure, but one Time or another, he may have Occasion to make Use of it.

The Act concerneth either, 1. Persons committed for some other criminal, or supposed criminal Matter,

Matter, besides Treason or Felony ; and these are to have an *Habeas Corpus* immediately. 2. Such who in their *Mittimus* are charged with Treason or Felony ; and these shall have the said Writ after the Time herein limited. 1. If any Goaler, or Under-Keeper, shall not deliver a true Copy of the *Mittimus* within Six Hours after the Prisoner demands it, the Head-Goaler or Keeper forfeits to the Prisoner, for the first Offence, the Sum of One Hundred Pounds ; for the second Offence Two Hundred Pounds, and loses his Place : nor is there any Fee to be paid for the same, the Turnkey must deliver it at his Peril. And Note, that if the Prisoner shall be locked up, or none suffered to come at him, any Friend of his may demand the same on his Behalf.

2. Whatever the Criminal Matter be, if Treason or Felony be not *expressly* charged, any Person on the Prisoner's Behalf, carrying such true Copy of the Commitment to the Lord Chancellor, or any of the Judges, or Barons of the *Exchequer*, or upon Oath made that a Copy was demanded, and denied, he shall grant an *Habeas Corpus*, or forfeit 500*l.* to the Prisoner. But such Request must be made in Writing, and attested by two Witnesses.

3. If the Sheriff or Goaler do not carry up the Prisoner, and return the true Causes of his Detainer within three Days, if within Twenty Miles Distance, or within Ten Days if above Twenty and under a Hundred Miles, or within Twenty Days if above an Hundred Miles, he forfeits 500*l.* to the Prisoner.

Note, The Prisoner must pay the Charges of his carrying up, and the Judge when he grants the Writ may order how much ; but it must not be above 12*d.* a Mile.

If upon the Return of such *Habeas Corpus* it appears that the Prisoner is not charged with Treason or Felony, especially and plainly expressed, or for such Matters as by Law are not bailable, the Judge shall discharge the Prisoner upon Bail.

4. If a Person once so bailed out shall again be imprisoned for the same Offence, those that do it forfeit 500 l.

5. If there be High-Treason or Felony, plainly and specially expressed, [that is, not only generally for Treason or Felony, but Treason in conspiring to kill the King, or in counterfeiting the King's Coin, or Felony for stealing the Goods of such an one to such a Value, &c] then the Prisoner cannot have his *Habeas Corpus*, till first he has, on the first Week of the Term, or first Day of Sessions of *Oyer and Terminer*, or General Goal-Delivery, petitioned in open Court, to be brought to his Trial the next Term, or Sessions following, on the last Day thereof he shall be bailed ; and if not indicted the second Term or Sessions, shall be discharged.

6. This Act extends to all Places within *England* and *Wales* ; The *Tower* cannot be supposed to be exempted, nor *Windsor-Castle*, nor any such Royal Forts ; for the Words are general. And besides there is a special Act of Parliament, that unites the King's Castles to the Counties wherein they stand ; there having been it seems some Pretensions, and ill Practices, to hold them distinct, that therein they may detain Men Prisoners against Law, and not admit any Writ to enlarge them. For Remedy whereof it was thus enacted ;

Anno 13. Rich. Second.

Item. It is ordained and assented, That the King's Castles and Goals, which were wont to be joined to the Bodies of the Counties, and be now severed, shall be rejoined to the same Counties.

Lastly, No Person shall be sent Prisoner out of *England* or *Wales*, into *Scotland*, *Ireland*, *Jersey*, *Guernsey*, *Tangier*, or any other Place beyond the Seas.

The Proviso's and other Clauses of this Act may be easily apprehended by the meanest Capacities.



